

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 NICK M. ELITZAM,

5 Plaintiff,

6 v.

7 CITY OF LAS VEGAS and LAS VEGAS
8 POLICE DEPARTMENT,

9 Defendants.

Case No. 2:16-cv-01178-APG-CWH

**ORDER GRANTING DEFENDANT
LAS VEGAS METROPOLITAN
POLICE DEPARTMENT'S MOTION
FOR SUMMARY JUDGMENT**

(ECF No. 27)

10 Plaintiff Nick Elitzam alleges that the defendants gave him a ticket for disturbing the
11 peace and he was subsequently put in jail for four months and six days. ECF No. 4 at 4. Elitzam
12 asserts he was treated differently than his neighbors (who made loud noises in the early morning
13 hours but were not similarly arrested) because of racial animus against him. *Id.* at 6-7. He further
14 alleges that while in jail, he was subjected to freezing temperatures and was denied a second
15 blanket and toilet paper due to racial animus. *Id.* at 5.

16 Defendant Las Vegas Metropolitan Police Department (LVMPD) moves for summary
17 judgment, arguing that Elitzam's claims against LVMPD related to the tickets for disturbing the
18 peace and the related convictions and sentences are barred under *Heck v. Humphrey*. Elitzam
19 responds that he wants "scientific evidence" supporting his prior conviction. ECF No. 29 at 1. He
20 also asserts that his convictions were based on lies from his neighbors, who he contends are drug
21 dealers and burglars with racial animus against him. *Id.* He also asserts he can prove that his
22 convictions were illegal and the police did not have evidence to prove his guilt. *Id.* at 2. He seeks
23 as relief, among other things, the "cleaning of my record." *Id.* at 6.

24 Under the rule announced in *Heck v. Humphrey*, if a judgment in the plaintiff's favor
25 "would necessarily imply the invalidity of his conviction or sentence . . . the complaint must be
26 dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been
27 invalidated." 512 U.S. 477, 487 (1994). Elitzam's civil claims against LVMPD necessarily
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1 challenge his criminal convictions and sentences for disturbing the peace and Elitzam has not
2 shown those convictions or sentences have been invalidated. Consequently, his claims against
3 LVMPD are barred and I grant LVMPD's motion for summary judgment.¹

4 IT IS THEREFORE ORDERED that defendant Las Vegas Metropolitan Police
5 Department's motion for summary judgment (**ECF No. 27**) is **GRANTED**. The clerk of court
6 shall enter judgment in favor of defendant Las Vegas Metropolitan Police Department and against
7 plaintiff Nick M. Elitzam.

8 DATED this 10th day of May, 2017.

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11 _____
12 ANDREW P. GORDON
13 UNITED STATES DISTRICT JUDGE
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27 ¹ Unlike defendant City of Las Vegas, Elitzam does not assert claims against LVMPD other than
28 ones that challenge his convictions and sentences. *See* ECF No. 25.